

**UNITED STATES DISTRICT COURT OF
MASSACHUSETTS**

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BRIAN D. CLARK,

Plaintiff,

-vs-

PROVIDENCE & WORCESTER RAILROAD,

Defendant.
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PARTIES

1. The Plaintiff, Brian D. Clark, is an individual who resides at 139 City Depot Road, Charlton City, Massachusetts 01508.
2. The Defendant, Providence & Worcester Railroad, is a railroad corporation duly established by law having its principal office at 282 Southbridge Street, Worcester, Massachusetts 01601, and having a usual place of business in Worcester, Massachusetts for injuries suffered by the Plaintiff while in the employ of the Defendant.

COMPLAINT

COUNT I:

Negligence

1. The Plaintiff is a resident of Charlton City, Massachusetts and brings this action against the Defendant, Providence & Worcester Railroad, a railroad corporation duly established by the law of the State of Massachusetts, and having its principal office 282 Southbridge Street, Worcester, Massachusetts 01601, and having a usual place of business in Worcester, Massachusetts for

injuries suffered by him while in the employ of the Defendant. This action is brought by virtue of the provisions of the Federal Employers' Liability Act, 45 U.S.C.A., Section 51, et seq.

2. During all the times herein mentioned, the Defendant was a common carrier, engaged in the business of interstate commerce, and, as such, operated a railroad in such business between said Worcester, Massachusetts and Providence, Rhode Island; and, at the time the Plaintiff received the injuries complained of, both he and the Defendant were engaged in interstate commerce, within the meaning of the said Federal Employers' Liability Act.
3. On or about January 26, 2009, the Plaintiff was engaged in his duties as a trainman for The Providence & Worcester & Railroad, whose station, tracks, rails, engines, trains, cars and all other equipment and appliances appurtenant thereto were owned and/or operated and/or controlled and/or maintained by the Defendant, and as a result of the negligence of the Defendant, its agents, servants or employees, the Plaintiff was injured.
4. The Plaintiff sustained his injuries while working for Providence & Worcester Railroad in Worcester, Massachusetts. The Plaintiff was attempting to disembark from a car on the rip-track when he was impaled on a protruding rod of reinforcing steel that was not properly covered, in violation on OSHA Reg. 1926.701(b). This regulation requires that all protruding reinforcing steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement.
5. As a result of the said accident, the Plaintiff was made sick, sore and lame and

has suffered great pain of body, anguish of mind and will so continue to suffer for an indeterminate period of time in the future. Prior to said accident, the Plaintiff was earning the wages of a trainman as an employee of the Defendant; that as a result of the said accident, the Plaintiff has been incapacitated and prevented from engaging in his employment and that the Plaintiff will continue to be so incapacitated in the future; that the plaintiff has been and for some time in the future will be caused to incur expenses for doctors' and hospital services and for medicine in caring for the said injuries.

COUNT II: **Failure to Provide a Safe Place to Work**

1. The Plaintiff is a resident of Charlton City, Massachusetts and brings this action against the Defendant, Providence & Worcester Railroad, a railroad corporation duly established by the law of the State of Massachusetts, and having its principal office 282 Southbridge Street, Worcester, Massachusetts 01601, and having a usual place of business in Worcester, Massachusetts for injuries suffered by him while in the employ of the Defendant. This action is brought by virtue of the provisions of the Federal Employers' Liability Act, 45 U.S.C.A., Section 51, et seq.
2. During all the times herein mentioned, the Defendant was a common carrier, engaged in the business of interstate commerce, and, as such, operated a railroad in such business between said Worcester, Massachusetts and Providence, Rhode Island; and, at the time the Plaintiff received the injuries complained of, both he and the Defendant were engaged in interstate commerce, within the meaning of the said Federal Employers' Liability Act.
3. On or about January 26, 2009, the Plaintiff was engaged in his duties as a

trainman for The Providence & Worcester & Railroad, whose station, tracks, rails, engines, trains, cars and all other equipment and appliances appurtenant thereto were owned and/or operated and/or controlled and/or maintained by the Defendant, and as a result of the negligence of the Defendant, its agents, servants or employees, the Plaintiff was injured.

4. The Plaintiff sustained his injuries while working for Providence & Worcester Railroad in Worcester, Massachusetts. The Plaintiff was attempting to disembark from a car on the rip-track when he was impaled on a protruding rod of reinforcing steel that was not properly covered, in violation on OSHA Reg. 1926.701(b). This regulation requires that all protruding reinforcing steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement.
5. As a result of the said accident, the Plaintiff was made sick, sore and lame and has suffered great pain of body, anguish of mind and will so continue to suffer for an indeterminate period of time in the future. Prior to said accident, the Plaintiff was earning the wages of a trainman as an employee of the Defendant; that as a result of the said accident, the Plaintiff has been incapacitated and prevented from engaging in his employment and that the Plaintiff will continue to be so incapacitated in the future; that the Plaintiff has been and for some time in the future will be caused to incur expenses for doctors' and hospital services and for medicine in caring for the said injuries.

WHEREFORE, Plaintiff, Brian D. Clark demands judgment against the Defendant in the sum of TWO MILLION DOLLARS (\$2,000,000.00) DOLLARS.

PLAINTIFF RESERVES THE RIGHT TO A JURY TRIAL

Brian D. Clark
By his attorneys,

DATE: March 5, 2009

/ Christopher Naumes /
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served on the following attorneys by mail on March 5, 2009.

/ Christopher Naumes /
Christopher C. Naumes, Esq.